

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MICHAEL O. ANDERSON,
Plaintiff,

v.

VIRTUE RECOVERY CENTER, et al,
Defendants.

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CASE NO. 6:23-CV-00886-ADA-JCM

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

TO: THE HONORABLE ALAN D ALBRIGHT,
UNITED STATES DISTRICT JUDGE

This Report and Recommendation is submitted to the Court pursuant to 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72(b), and Rules 1(f) and 4(b) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges.

Before the Court is the above styled and numbered cause. The Plaintiff was ordered to show cause by September 9, 2024, as to why this cause should not be dismissed for failure to serve Defendant pursuant to Federal Rule of Civil Procedure 4(m). Show Cause Order (ECF No. 8). Plaintiff failed to respond to the Court's Order or submit a summons for the U.S. Marshals to execute. Rule 4(m) provides that if a defendant is not served within 90 days, the Court must dismiss the action without prejudice against that defendant or order that service be made within a specified time. Fed. R. Civ. P. 4(m). Because the Court gave Plaintiffs an opportunity to serve Defendants and Plaintiffs failed to do so, the undersigned **RECOMMENDS** that the above styled and numbered cause be dismissed without prejudice.

OBJECTIONS

The parties may wish to file objections to this Report and Recommendation. Parties filing objections must specifically identify those findings or recommendations to which they object. The District Court need not consider frivolous, conclusive, or general objections. *See Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). Except upon grounds of plain error, failing to object shall further bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas*, 474 U.S. at 150-53; *Douglass*, 79 F.3d at 1415.

SIGNED this 11th day of September 2024.


JEFFREY C. MANSKE
UNITED STATES MAGISTRATE JUDGE